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NOVEMBER 1995 HELENA, MONTANA VOL. X NO. 6

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LEGISLATIVE COUNCIL

Council Meets in September...The Legislative Council met September 15. During the course of the meeting, the Council took the following actions:

- decided not to appeal Judge Honzel's opinion in the lawsuit brought against the Council and EQC to require immediate access to bill drafting documents throughout the drafting process;
- authorized the Chairman to create a subcommittee (two members from each of the following committees: Legislative Council, EQC, Audit Committee, and Finance Committee) to prepare a proposal to eliminate the Council rule that all bills be drafted by the Legislative Council. The subcommittee would explore the ramifications of such a change and recommend processes to implement it.
- reviewed and adopted the proposed study plan for the study of the uses of and need for high-quality and timely minutes of committees of the Montana Legislature including the proposal for a clear definition of the components to be included in committee minutes and alternate means of producing them. A copy of the study plan can be obtained from the Legislative Services Division.
- directed Sen. Brown, as Chairman of the Personnel Subcommittee, to examine the Legislative Branch pay inequities as a part of the classification review and other work of the Subcommittee; and

- noted Ellen Garrity's retirement from state government and from the Legislative Services Division.

## LEGISLATIVE SERVICES DIVISION

### OFFICE OF RESEARCH AND POLICY ANALYSIS

The following research reports are available from the Office of Research and Policy Analysis. For a copy of a particular report, call the Legislative Services Division at 444-3064.

- Legislation Affecting Indians Considered by the 1995 Montana Legislature
- Analysis of Montana's Property Tax Structure
- Analysis of Federal Income Tax Proposals
- Summary of Tax Legislation Enacted During the 1995 Legislative Session
- Juvenile Justice and Mental Health Study Commission: Proposed Study Plan
- Proposed Study Plan for Senate Joint Resolution No. 11
- Chronological History of the Committee on Indian Affairs
- Montana Youth Court Act: 1995 Overview
- Joint Interim Subcommittee on Foreign Investment Depository: Proposed Study Plan
- Montana Legislative Council Library Annual Report for Fiscal Year 1995
- 1995 Legislation to Strengthen Child Support Enforcement
- State Management Systems for the 21st Century: Preliminary Study Description
- Historical Perspective of the Committee on Children and Families

- The Montana Constitution and American Indians

## LEGAL OFFICE

### Ballot measures received:

- Remove requirements for the practice of law (Montanans for Due Process)
- Crime for a governmental entity's failure to disclose the authority for an act over which it has jurisdiction (Birkholz)

Note: pursuant to 13-27-202(2), MCA, copies of correspondence are available through the Secretary of State.

## REVENUE OVERSIGHT COMMITTEE

State Revenue on Track for FY 95...At the Revenue Oversight Committee's (ROC) September 29 meeting, Terry Johnson, Legislative Fiscal Division, presented a summary of state revenue collections and the ending fund balance for the combined general fund and school equalization account for fiscal year 1995. General fund receipts were \$646.1 million or about \$4 million more than anticipated by the Legislature. School equalization account receipts were \$289.2 million or about \$3 million less than anticipated. Johnson's report also showed that the preliminary ending fund balance for the combined accounts is \$45.8 million. That amount will determine how much is available for the income tax refunds under HB 171 scheduled to be paid this year (see Other Committee Business below). The actual refund is the fund balance amount in excess of \$24.4 million or about \$21 million.

Economic Trends in the U.S. and Montana...The state of Montana uses national economic forecasts provided by the Wharton Econometrics Group (WEFA) in developing projections for state economic activity and in estimating state tax revenue available for legislative appropriation. In particular, the Revenue Oversight Committee uses WEFA forecasts for many of the underlying assumptions contained in its revenue estimating resolution.

Peter Jaquette, representing WEFA, presented a report, U.S. Economic Outlook: What Comes After the Soft Landing?. According to Jaquette, the national economy grew quite strongly in 1994. As a result, the Federal Reserve Board increased interest rates in an effort to rein in the

economy and to reduce inflation. Economic growth has slowed and inflationary pressures have moderated. WEFA expects gross domestic product to grow by about 3% in real terms this year. That rate will slow to about 2.5% during the next few years. WEFA also anticipates significant growth in investment over the period and believes the prospects of a national recession have diminished. Mr. Jaquette also noted that Montana and the Rocky Mountain region have generally grown faster than the national economy since 1991, but that future growth in the region will be much closer to the national average. Weaker agricultural prices, particularly cattle prices, will be one of the contributing factors to the slower growth.

The WEFA Group will provide consulting services next fall as the Committee begins to develop its revenue estimates for the 1997 biennium.

Paul Polzin, Director, Bureau of Business and Economic Research, University of Montana, discussed the factors that contributed to Montana's economic growth since 1991. Agriculture was particularly strong in 1991 and 1993, with 1993 the best farm year since the mid-1970s. Construction increased because of lower interest rates and a backlog of projects delayed since the 1980s. Value-added manufacturing also grew during the period. Despite a reduction in the federal timber supply, the wood products industry did not decline. Increased harvest from private lands offset some of the loss associated with federal lands. Finally, labor income of the state's federal employees rose significantly between 1991 and 1994. Although economic growth will moderate in 1996 and 1997, Polzin expects the state's economy to be relatively strong.

Federal Tax Reform and Montana...House Joint Resolution No. 16, passed during the 1995 Session, directed the Department of Revenue, the Budget Office, and the Legislative Fiscal Analyst to report to the Revenue Oversight Committee on any changes in federal income tax law that may affect state income tax collections. On April 5, 1995, the U.S. House of Representatives, as part of the House Republican's "Contract with America", passed HR 1215 ("Tax Fairness and Deficit Reduction Act of 1995"), an omnibus tax bill that would provide a broad range of tax credits and rate reductions for families and businesses as well as offsetting cuts in discretionary spending.

Jeff Martin, Committee staff, presented a summary of the bill and a qualitative assessment of the measure's effect on Montana's tax structure. The U.S. Senate had taken no specific action on the tax cuts contained in HR 1215. However, the House and Senate have passed their respective budget reconciliation packages, both of which contain tax cuts (see **THE BACK PAGE** for a discussion of HR 1215 and recent congressional developments). Differences in the two bills will be resolved in conference committee probably in November. The Battle of the Budget will erupt in a winter campaign following President Clinton's promised veto of any budget package sent to him. The Revenue Oversight Committee will continue to monitor (a la the UN) the federal tax war.

Committee to Focus on Property Tax Study...Senate Bill No. 417, in addition to reducing property tax rates on business equipment, created a tax policy task force to study all aspects of taxation in Montana. Committee members Mike Foster and Spook Stang, who are also members of the Task Force, reported on its first meeting held Sept. 8 and 9 in Bozeman. The Task Force discussed the direction, scope, goals, and mission of the study. The Task Force also identified 50 "areas of interest" for study and will ultimately rank these areas of interest for further investigation. One of the obstacles to completing the study is limited resources. However, the Task Force is committed to developing recommendations for legislative consideration.

At the June 16 meeting of the ROC, staff presented a property tax study proposal for the Committee's review. The proposed study would provide a fairly comprehensive summary of the issues and trends related to property taxation in Montana and would develop policy options. The Committee delayed formal adoption of the study until after the first meeting of the Tax Policy Task Force. Following the discussion of the activities of the Task Force, the Committee decided to proceed with its own property tax study. The Committee anticipates that its study would complement the Task Force. As part of the study, the Committee agreed to send Jeff Martin to a property tax seminar sponsored by the National Conference of State Legislatures in Atlanta, Georgia.

Other Committee Business...The Montana Coal Board reported on the Board's recent activities as they relate to the proposed Bull Mountain underground coal mine. Mick Robinson, Director, Department of Revenue reported on the status of the income tax refund under HB 171 (Excess Tax Refund Agreement) and the partial property tax reimbursement under HB 497. Mr. Robinson anticipates that income tax refund checks, ranging from \$10 to \$1,000, will be issued in early November. The Department has sent out property tax claim forms to eligible homeowners. In order to receive a reimbursement, the claim form must be returned to the Department of Revenue by December 31, 1995. Property tax payments will range from \$25 to \$1,000.

Committee To Meet November 17...The ROC will meet November 17 in Room 108 of the state Capitol. The main agenda items relate to the property tax study. Staff will present a report on changes in the state's property tax system since 1978. Stan Nicholson, Director of Montana Fiscal Forums, will provide information on changes in property tax collections in selected counties. Jeff Martin will report on the NCSL property tax seminar.

## LEGISLATIVE COMMITTEE ON STATE MANAGEMENT SYSTEMS

Committee to Meet in November...The Legislature's interim Committee on State Management Systems will meet in Helena on Monday and Tuesday, November 13 and 14. The Committee was created by Senate Joint Resolution No. 23 (SJR 23) adopted by the 54th Legislature. The public is welcome to attend the meetings.

Initially, the Committee will be briefed on the fundamentals of "Business Process Reengineering" or BPR, by a team from Resource Integration Associates of Denver, Colorado. The briefing will begin at 9 a.m. on November 13 at the Colonial Inn in Helena, concluding at about noon. Beginning at 1 p.m., the Committee will participate in a demonstration of an automated, integrated management information software product developed by Oracle, Inc.

On Tuesday, November 14, the Committee meeting moves to Room 104 of the State Capitol where a Committee work session begins at 8:30 a.m. The agenda includes briefings from each of three subcommittees: the Accounting Task Force; the Budgeting Task Force; and the Data Management Task Force. These three subcommittees will present and discuss work plans designed to fulfill the directives of SJR 23.

The Committee has two basic charges from the Legislature: (1) to review the laws governing management of the state's personnel, financial, and other assets, with the goal of proposing revisions that provide clear, internally consistent, and simplified language based upon clear, consistent goals, while ensuring that the state and its agencies are able to maintain strict accountability of the state's assets; and (2) to examine opportunities for and advantages of installing an integrated system of asset management tools.

Members of the Committee are: Senator Mack Cole, Chairman (Hysham); Rep. Deb Kottel, Vice Chairman (Great Falls); Senator Dorothy Eck (Bozeman); Senator Del Gage (Cut Bank); Senator Greg Jergeson (Chinook); Rep. Mike Kadas (Missoula); Rep. Peggy Arnott (Billings); and Rep. Karl Ohs (Harrison).

For further information, please contact Dave Bohyer at the Montana Legislative Services Division in Helena, 444-3064.

## COMMITTEE ON INDIAN AFFAIRS

Committee to Meet on Crow Reservation...At the invitation of the Crow Tribe, the Committee on Indian Affairs will hold its next meeting at Crow Agency on November 7 and 8. On Tuesday, November 7, the Committee will tour the Reservation. On the evening of November 7, the Committee will hold a public hearing on Senate Joint Resolution No. 11. Representatives from the Crow and Northern Cheyenne tribal education departments, public school districts serving the Crow Reservation, and Little Big Horn College will be invited to meet with the Committee to discuss implementation of Article X, Section 1, subsection (2) of the Montana Constitution.

On Wednesday, November 8, the Committee will meet with the Crow Tribe to discuss issues of importance between the Tribe and the state. Both the public hearing on November 7 and the meeting on November 8 are open to the public.

For more information about the meeting, please contact Connie Erickson, Legislative Services Division, 444-3064.

## JOINT OVERSIGHT COMMITTEE ON CHILDREN AND FAMILIES

Committee Holds 2-Day Meeting...The Joint Oversight Committee on Children and Families (CCF) conducted its second meeting on October 26-27. The following summary presents only the brief highlights of information presented at the 2-day meeting.

Hears Report on Federal Welfare Reform...Ms. Lois Steinbeck, Senior Legislative Fiscal Analyst, presented a report and update on the potential fiscal impacts of federal welfare reform proposals. Key issues discussed were the work hour requirements being proposed, which, under Montana's waivers, are too high; potential cuts in funding for at-risk child care; and the block grant funding that will be based on Federal Fiscal Year (FFY) 1994 state spending. Montana's FY 1996 and FY 1997 state budget includes about \$6 million more in funding than the state spent in FFY 1994.

DPHHS Update...Dr. Peter Blouke, Director, Department of Public Health and Human Services (DPHHS), updated the CCF on the DPHHS's welfare reform waivers, the mental health Managed Care Request For

Proposals, and the status of DPHHS reorganization. Dr. Blouke expressed optimism that potential funding cuts could be offset by the projected savings from reduced administrative costs and program flexibility. He said that projected federal welfare reform would not significantly impact Montana's program, Families Achieving Independence in Montana (FAIM), but that the DPHHS has organized an advisory council to keep abreast of the issues and make recommendations for changes if necessary. Responding to questions, Dr. Blouke said he did not anticipate any changes in staffing levels at the local level, but that jobs and position descriptions would have to be adapted so that there would be more case management through the local county health offices. Dr. Blouke also said that although computer systems will have to be upgraded and adapted to meet federal reporting requirements, existing systems were adequate to prevent any "crisis" in implementing necessary changes.

Mr. Hank Hudson, Administrator, Family Services, DPHHS, presented a brief overview of the AWARE program, which involves supervised community group homes for severely emotionally disturbed youth.

Work of ICC Reviewed...Mr. Keith Colbo, President, Colbo Consulting Group, updated the CCF on the activities and work plan of the Interagency Coordination Council for State Prevention Programs (ICC). Mr. Colbo focused primarily on the ICC's plan to achieve outcome benchmarks and baseline program data in 21 subject areas covering state prevention programs. This data is to be used to inventory what programs are in place, what the objectives should be, and to evaluate progress toward those objectives. The ICC has completed the initial survey process and is currently working with survey respondents to standardize the data and expectations.

Subcommittees Formed...The CCF also conducted three panel discussions on teen pregnancy, substance abuse among minors, and child care. Each panel presented background information on current programs and various perspectives on key issues for further consideration. To further discuss the information provided through the panel discussions and Committee goals and objectives, the CCF decided to break into two subcommittees by geographic location. One subcommittee meeting will be held in Bozeman on December 8. The other meeting will be held in Missoula on November 29. Committee members agreed not to receive any compensation or expense reimbursement for the two subcommittee meetings. The next meeting of the full Committee will be January 25 and 26, 1996.

For further information on the October meeting or on planned meetings, contact Sheri Heffelfinger at the Legislative Services Division, 444-3064.

## JUVENILE JUSTICE AND MENTAL HEALTH STUDY COMMISSION

Commission Meets in Kalispell...The Juvenile Justice and Mental Health Study Commission held its second meeting October 5 and 6 in Kalispell. At the Kalispell meeting, the Commission decided to form three subcommittees to study specific issues more in-depth. The three subcommittees and some of the identified issues are as follows:

- YOUTH COURT ACT
  - restitution
  - status offenders/truancy
  - confidentiality
  - parental rights and responsibility
  - detention
- MENTAL HEALTH/JUSTICE
  - drug/alcohol abuse
  - conduct disorder
  - sex offenders
  - long-term and secure care for boys and girls
- SYSTEM ORGANIZATION/COORDINATION
  - provider and agency coordination
  - reservation coordination
  - early intervention/prevention
  - school issues/alternative education

To Hold Next Meeting in Billings...The Commission will meet on December 7 and 8 in Billings to hear public and provider testimony, to tour the Youth Services Center and Yellowstone Treatment Center, and to hear a speaker from the Youth Justice Center. The meeting will begin at noon on Thursday, December 7 at the Youth Services Center and include the speaker and tours. The public hearing will be held at 7 p.m. on Thursday at the Lincoln Center Board Room. On Friday, the meeting begins at 8 a.m. at the Youth Services Center when the Subcommittees will begin their work.

The Billings meeting constitutes the third mental health region in which the Commission has met. The Commission plans to meet in Helena on February 5 and 6 and tentatively plans to hold meetings in Missoula and Great Falls in the future.

## SUBCOMMITTEE ON VETERANS' NEEDS

Subcommittee to Hold First Meeting...The Subcommittee on Veterans' Needs will hold its first meeting on Friday, December 15 in Helena in Room 108 of the Capitol Building. The members of the Subcommittee have been appointed and are as follows:

Sen. Bob Pipinich (D)  
Sen. Bill Wilson (D)  
Sen. Don Hargrove (R)  
Sen. Mack Cole (R)

Rep. Harriet Hayne (R)  
Rep. Bob Pavlovich (D)  
Rep. John Johnson (D)  
Rep. Roger DeBruycker (R)

## ENVIRONMENTAL QUALITY COUNCIL

EQC Meets in September...The Environmental Quality Council met on Thursday and Friday, September 14 and 15 in the Capitol Building. The Council received a half-day training session on the implementation of the Montana Environmental Policy Act (MEPA). The Council, in conjunction with its interim work plan, established an Enforcement and Compliance Subcommittee to comprehensively evaluate the enforcement and compliance procedures of the state's environmental and natural resource programs (HJR 10 Interim Study). The Council also set up a MEPA implementation subcommittee to evaluate the MEPA Implementation Project and to assist state agencies in integrating regulatory impacts analysis on private property rights into the MEPA environmental review process.

The Council received an update from the Montana Consensus Council on the Department of Environmental Quality's study of the elimination of joint and several liability under the state superfund statutes. The Council also received an update from the Department of Natural Resources and Conservation regarding the State Water Planning process. The Council analyzed the merits of an internal environmental risk assessment and prioritization process and decided to organize a panel discussion on the issue at its upcoming December meeting. Other meeting agenda items included: a joint briefing for the Legislative Council and EQC on the Honzel Decision requiring that bill drafts be accessible to the public; a water quality audit update from the Department of Environmental Quality; and an update on the Major Facility Siting Act Collaborative Study process.

EQC Enforcement and Compliance Study... The EQC Enforcement and Compliance Subcommittee met on October 6, 1995. The Subcommittee

heard presentations from the Department of Environmental Quality's Reclamation Division concerning the enforcement and compliance procedures of the Coal, Hard Rock, and Open Cut programs. The Subcommittee is evaluating the effectiveness, efficiency, timeliness, fairness, consistency, and appropriateness of each program's compliance and enforcement procedures pursuant to the House Joint Resolution No. 10 interim study.

Council and Subcommittees To Meet in December...The full Council will meet on December 7 and 8. The Enforcement and Compliance Subcommittee and the MEPA Implementation Subcommittee will both meet on December 6.

For more information on these issues, please contact the EQC staff at 444-3742.

## LEGISLATIVE FINANCE COMMITTEE

Committee Meets in October...The Legislative Finance Committee (LFC) met in Helena on October 13 to hear a number of reports and discuss several issues.

Federal Budget Reduction Initiatives...The Committee heard a report by Legislative Fiscal Division (LFD) staff on the potential impact on Montana of federal budget reductions being debated by Congress, possible options open to the Legislature, and circumstances under which the Legislature might have to (or want to) meet in special session. The report also discussed the potential impact of a federal government "shutdown" due to a lack of a budget agreement. The report focused only on certain funds allocated to state government for administering, and not on the other federal fund disbursements in Montana, including direct payments to individuals and national defense spending.

The report noted that federal funds comprise over 38 percent (\$1.6 billion) of funds appropriated in House Bill 2. Of those appropriated funds, over 90 percent go to three categories -- human services, transportation, and education.

Congress set an ambitious goal for budget reductions in a budget resolution and, as proposed, would have a dramatic impact on federal grants-in-aid to states over the next seven years, including a potential reduction in Montana (over existing program projections) of several hundred million dollars. The Medicaid program would be the most impacted under the new proposals. The report notes that the actual recourse chosen by the Legislature depends upon a number of circumstances, some unique to

each program. Also at issue is whether a statutory imperative exists for provision of affected services and the corresponding change in those requirements. The report generally concludes that under the most current proposals, the Legislature would not be required to meet in special session. The report, however, discusses that unique conditions exist in various programs that could trigger the need or desire for legislative action and addresses difficult policy decisions facing the 1997 and future legislatures. LFD staff will update this report at the December 8 LFC meeting.

Fiscal 1995 General Fund/SEA Fund Balance...The LFC heard a report that the preliminary ending fund balance data for fiscal 1995 is \$45.8 million or \$4.7 million above the level anticipated by the 54th Legislature. In general, revenues are tracking as anticipated. The primary reason for the increase was a prior year adjustment to inheritance tax collections of \$3.6 million. There is no impact on the projected ending fund balance for the 1997 biennium, since the \$4.7 million increase will be applied to the income tax refund statutory appropriation (HB 171). The amount of the refund is determined by the amount of unreserved balance in the fiscal 1995 general fund in excess of \$24.4 million, and the preliminary numbers anticipate a \$21.1 million refund to taxpayers.

Personal Income Trends...The Committee heard an LFD report explaining why U.S. Department of Commerce statistics show Montana dropping from first in per capita income growth for calendar 1992-1993 to last in calendar 1993-1994. During this period, Montana went from a 6.5 percent per capita income growth to a 1.1 percent increase. The report notes that the decrease is largely due to a significant decrease in total farm income, although slower growth rates were also observed in non-farm categories. Farm income decreased largely due to lower market prices for livestock coupled with higher farm production expenses. When non-farm income is excluded, Montana ranks 25th in calendar 1992-1993 and 42nd in calendar 1994-1995. Although Montana's growth rate in calendar 1994 is low in nominal terms, the rate when adjusted for inflation is comparable to the past 25 years.

Privatization Issues...The Committee heard an LFD report on the executive branch initiatives toward privatization of selected state services. The Governor's Office is planning to nominate a number of state functions to the Legislative Audit Committee for review of the feasibility for privatization. Among those being considered is privatization of state computer services. This was influenced by a proposal from the Dept. of Public Health and Human Services (DPHHS) to contract with a private entity for mainframe processing services at an estimated savings of 17 percent from current state mainframe costs. The report addressed Dept. of Administration (DofA) concerns that if DPHHS processing services were privatized, rates for remaining mainframe users would have to increase by

25 percent, and that the planned 13 percent reduction in fiscal 1997 computer processing costs (approved by the 1995 Legislature) would not be possible. The DofA also stated that if such a large portion of state computer processing services were to be removed, then the entire state service should be considered for privatization. The report concluded, based on information provided, that there were no significant statewide cost savings that would result from the proposal, and that a potential increase might occur, since not all comparable and material costs were included in the proposal. This issue is expected to be addressed during the executive budget planning process for the 1997 biennium. The report also raised the possibility that actions such as privatizing DPHHS computer services could occur without legislative review, even though there could be a significant general fund impact. The LFC requested that the Governor's Budget Director keep them apprised of privatization initiatives due to the significant fiscal and policy implications.

Senate Joint Resolution No. 23... LFD staff presented a short report on SJR 23, which is a study on how to bring state management systems into the 21st century. Staff of the LFD are participating in the study and the LFC chair serves on the SJR 23 subcommittee. The LFC decided to be briefed on issues before the SJR 23 subcommittee that have a bearing on issues within the jurisdiction of the LFC, such as budgeting statute changes, rather than take a more proactive role and make recommendations to the subcommittee. The LFC left open the option to present recommendations at a later date if deemed necessary.

Budget Amendments. . .The Committee was presented a report on the staff's review of budget amendments. Twenty budget amendments totaling an additional \$2,047,342 and 8.05 FTE were reviewed and no concerns were noted. The report also summarized changes in the budget amendment and private funds statutes due to the enactment of House Bill No. 576 and Senate Bill No. 398 in the 1995 session. These bills changed budget amendment statutes and the associated responsibilities of the LFC and its staff. Although approving authorities are still required to submit copies of certified budget amendments to the Legislative Fiscal Division, the approving authority is no longer required to delay certification until after the review and report by the LFC. Therefore, the LFC may no longer directly influence whether certification takes place due to concerns about whether statutory requirements are met. However, HB 576 added a new stipulation that an approving authority cannot approve a budget amendment for a matter that could have been considered in the last legislative session unless the LFC is notified by the approving authority that "specific identifiable events, specific to Montana and pursuant to provisions or requirements of Montana state law, have occurred since the matter was raised with or presented for consideration by the legislature".

Since statutory criteria for budget amendments must still be met, staff will continue to review each budget amendment for compliance and provide a summary of all certified budget amendments to the LFC, noting any concerns.

LFC to Meet Again in December...The Committee set December 8 as the date for the next LFC meeting in Room 312-2 of the State Capitol.

## **SUBCOMMITTEE ON DEDICATED REVENUE AND STATUTORY APPROPRIATIONS**

SB 378 Subcommittee Meets...The Legislative Finance Committee Subcommittee on Dedicated Revenue and Statutory Appropriations had its first meeting of the interim on October 12. This Subcommittee was formed to address statutory requirements enacted by Senate Bill No. 378 in the 1993 session. Statutes under which the Subcommittee will be operating were reviewed with a focus on the statutory requirements of the LFC. The previous subcommittee actions and recommendations to the LFC were also reviewed and discussed. The resulting legislation sponsored by the LFC and enacted by the 1995 Legislature (Senate Bills No. 83 and 27) and its accomplishments, in terms of the elimination of state special revenue accounts and statutory appropriations, were discussed.

The Subcommittee approved a draft workplan and assigned staff a number of tasks to complete before the next meeting, which will be held in conjunction with the next LFC meeting. All of the brainstorming ideas and questions raised by the Legislative Fiscal Division staff (the majority of which addressed statutory appropriations) were considered worthy of pursuit. It was the Subcommittee's consensus that the focus in this interim should be in the area of statutory appropriations.

## **POSTSECONDARY EDUCATION POLICY AND BUDGET COMMITTEE**

PEPB Committee Meets...At its October 23 meeting, the Postsecondary Education Policy and Budget Committee (PEPB) discussed the western states higher education Quality/Access/Cost seminar held in Missoula in September and generally agreed that a vision of direction for the Montana

University System needed to be developed. The Committee also heard four reports from the Legislative Fiscal Division.

Two Year Education... This Legislative Fiscal Division (LFD) report presented historical, projected, and capacity enrollment data; national comparisons; fiscal 1996 budgeted education and instruction costs per student by campus; and an analysis of resident and non-resident costs of education compared to tuition. The report reached four conclusions.

1. There is sufficient capacity within the university system to accommodate the increased enrollment projected through fiscal 2004 if non-resident enrollment is reduced.
2. Montana awards proportionately more four-year degrees and fewer two-year degrees than other states.
3. Two-year education is less expensive than four-year education, but the cost of instruction for both is relatively constant as a percentage of total budget.
4. Montana subsidizes non-resident two-year education at the colleges of technology, the community colleges, and Montana Tech of the University of Montana.

Agency Budget Impacts... Dr. Mike Malone, President of Montana State University, discussed the results of budget cuts since fiscal 1992 and the unfunded faculty salary increases in fiscal years 1995 and 1996 at the Extension Service and the Experiment Station. By fiscal 1996, the cumulative budget reduction is \$300,000 for the Extension Service and \$423,000 for the Experiment Station.

Montana Statewide Student Unit Record Tracking System... Dr. Dick Crofts, Deputy Commissioner for Academic Affairs in the Office of the Commissioner of Higher Education, noted that the university system cannot now track students by identification number across the university system. He noted that the MUS is examining data bases existing in other states and researching the data elements that should be included in a data base for Montana.

MUS Budget Allocation... The LFD presented a report showing the formula allocation of the "lump sum" appropriated to the university system by the 1995 Legislature, compared to the incremental construction of that appropriation. The Great Falls College of Technology received substantial general fund and total fund increases to adjust for its greater enrollment. The University of Montana at Missoula received substantial increased tuition to adjust for a greater non-resident enrollment. Generally, general fund was reduced at most campuses and replaced with tuition.

PEPD to Meet in January...The PEPB set the next meeting for January 22, 1996. The agenda will include discussions on statements of the MUS vision; community college president/trustees consensus on the question of the community college/MUS merger issue; the importance of research versus teaching; and the collective bargaining and negotiated salary and production agreements at the various campuses.

## LEGISLATIVE BRANCH REORGANIZATION

Classification and Compensation Plan Being Developed...The development of a classification and compensation plan for the legislative branch started in early summer and is progressing smoothly. The Personnel Subcommittee - comprised of 4 members of the Legislative Council, 2 members of the Legislative Finance Committee, and 2 members of the Legislative Audit Committee - awarded the contract for the classification review of staff positions to the National Conference of State Legislatures (NCSL). NCSL brings the experience of having proposed seven previous legislative classification and compensation plans in other states. NCSL began a concerted effort in September. The NCSL team is currently conducting a job audit of each of the branch positions and will prepare a job description based on the audit. They will then develop a classification system and pay plan, with a final report scheduled in January 1996.

The classification and compensation study will be presented to the Personnel Subcommittee, which will then make a recommendation to the Legislative Council. After the Legislative Council has adopted a plan, it must be concurred in by the Legislative Finance Committee and the Legislative Audit Committee, in accordance with SB 398.

Members of the Personnel Subcommittee are:

Legislative Council: Sen. Bob Brown (Chair), Sen. Chris Christiaens, Rep. Pay Peck, and Rep. Red Menahan;

Legislative Finance Committee: Sen. Fred Van Valkenburg and Rep. Royal Johnson; and

Legislative Audit Committee: Sen. Greg Jergeson and Rep. Ernest Bergsagel.

Review of Legislative Services...This phase of restructuring will take advantage of the broad purposes stated in SB 398 to take a fresh look at the role of staff and staff organizations and to embark on a well planned assessment and restructuring of the branch organization to better

serve the Legislature. In this phase, a task force will be created to examine the full range of services provided by legislative branch activities and take advantage of every opportunity to consolidate, restructure, and reassign roles as necessary to provide maximum services and support to the Legislature. The task force will develop recommendations for restructuring of functions and services for presentation to the division directors.

Concurrent with the review of branch services discussed above, a second task force will be tasked to review the policy and procedure manuals of each separate division, with the goal of developing a model set of policies and procedures drafted to fit the exact needs of the new organization.

Both of the task forces have a daunting task that will require a major commitment of staff time. The goal is to proceed aggressively to complete as comprehensive a review of services and policies as possible in the 1997 biennium. However, this effort will likely not be completed in this biennium. In fact, it will be a goal to establish a framework for the continued periodic evaluation of branch services and policies.

Summary...SB 398 contemplates a closer relationship between the divisions to achieve the benefits of the one-branch concept. New and revised formal and informal communications links have been established and are evolving that will benefit the branch in dealing with change and support the transition to a branch philosophy. The directors of the three divisions are developing a new governance structure and meet regularly to deal with branch policy issues. While staff apprehension is understandably high during this period of rapid change and uncertainty, they are responding positively and are proactively offering and implementing suggestions for improvements in efficiency and services offered to the Legislature.

## THE BACK PAGE

The U.S. House of Representatives began the 104th session of Congress with a flurry of activity designed to implement the House Republicans' "Contract With America" (Contract). One of the cornerstones of the Contract is to provide tax reductions for both families and businesses. On April 15, 1995, the House passed HR 1215 ("Tax Fairness and Deficit Reduction Act of 1995"), an omnibus tax bill that includes a broad range of tax credits and rate reductions for families and businesses as well as offsetting cuts in discretionary spending.

The U.S. Senate had delayed action on tax cuts until the federal budget had been balanced. As then-Senator Packwood put it "Tax cuts are fine, but I want to see a balanced budget first." Earlier this fall, however, Republican House and Senate leaders began working out the details of a budget reconciliation package to balance the federal budget in seven years and to provide tax relief. The House and Senate passed their respective budget bills in the waning days of October. This month's "The Back Page" article highlights the major tax provisions contained in the budget bills and briefly assesses their potential impact on Montana.

### THE TAX MAN EBBETH

by Jeff Martin, Research Analyst  
Legislative Services Division

The Tax Fairness and Deficit Reduction Act of 1995, as originally passed, is a combination of separate legislation designed to implement the various tax elements of the Contract and to limit discretionary spending over the 5-year budget horizon. The essential tax features of HR 1215 are:

#### Individual and Family Tax Provisions

- a family tax credit of \$500 for each qualifying dependent for families with income below \$200,000;
- a "marriage penalty" credit;
- an adoption tax credit deduction;
- an elderly care credit;
- an "American Dream" savings account (ADSA) that would tax contributions but not withdrawals. The savings account could be used for a variety of purposes, including retirement, college expenses, and the first-time purchase of a new home.

- an increase in the amount that a nonworking spouse may contribute to an IRA;
- a phaseout of the increased proportion of Social Security benefits that are subject to taxation;
- various incentives for long-term care; and
- a capital loss deduction allowed for the sale or exchange of a principal residence.

#### Business Tax Provisions

- a phaseout of the alternative minimum tax on corporations;
- an increase in the expense treatment of capital equipment purchased by small businesses;
- a 50% capital gains exclusion and indexation of capital gains for individuals;
- an increase in the estate tax credit;
- a reduction in the maximum corporation alternative tax on capital gains from 35% to 25%; and
- a "neutral cost recovery system" for depreciation.

Most states, including Montana, conform their individual income and corporation license taxes to federal income tax laws. In Montana, the individual income tax structure, including adjusted gross income, federal taxes paid, and most itemized deductions, is directly affected by the federal tax code. Similarly, federal taxable income is the starting point for determining a corporation's Montana tax liability.

Under Montana's current individual and corporation income tax structures most of the provisions contained HR 1215 would have an impact on the state's tax collections: some positive, most negative, some small, some large. For example, enactment of the various individual income tax credits would increase state tax revenue because the amount deducted for federal income taxes paid would decline. On the other hand, the 50% capital gains exclusion for individuals would have a relatively large, negative impact on state collections. An offsetting, although minor, revenue gain would be the limitation that a taxpayer would be allowed to deduct from other income: only 50% of net capital losses up to \$3,000 in a tax year.

Most of the other tax relief provisions for individuals would either reduce Montana adjusted gross income or Montana taxable income. Taken separately, they would have a relatively small impact on state collections, even those provisions that are indexed for inflation. The largest of these would be the phaseout of Social Security benefits subject to tax. The revenue impact would be slightly negative in the first few years but would increase in later years. The Omnibus Reconciliation Act of 1993 increased from 50% to 85% the proportion of Social Security benefits that may be included in gross income, depending on filing status and income. Under the proposal, the maximum amount of Social Security benefits included in gross income would be reduced from 85% to 50% over 5 years.

On the corporation side, the largest negative revenue impact for Montana would be the so-called "neutral cost recovery system" for depreciation. The neutral cost recovery system would replace the current system for property placed in service after December 31, 1994. Depreciation deductions would be calculated by using the 150% declining-balance method for personal property and the straight line method for real property over the recovery periods specified in current law.

The 150% declining-balance method provides less favorable tax treatment in the first years of depreciation than current law. However, depreciation deductions would be indexed to inflation. In addition, the deduction for assets with recovery periods of 10 years or less would be further adjusted by 3.5% a year for each year that the property has been in service. The purpose of the additional adjustment is to provide taxpayers the equivalent of deducting expenses for property with a recovery period of 10 years or less.

The new system would reduce depreciation deductions for personal property in the first few years after the property is placed in service, generating additional revenue for the state. In latter years the revenue loss would be substantial.

The phaseout of the alternative minimum tax on corporations and the reduction in the maximum corporation alternative tax on capital gains would have little impact on Montana tax collections. Montana does not have an alternative minimum tax, and federal tax rate changes, as opposed to exclusions, do not affect the state's corporation tax. In addition, corporations are not allowed to deduct federal income taxes.

Following the budget summit between Republican Senate and House leaders, the House agreed to pare back its \$353 billion tax cut proposals (over 7 years) to \$245 billion. The House has subsequently made some revisions to HR 1215 in its budget reconciliation bill (HR 2517). Most of the provisions in HR 1215 remain intact with some adjustments. Although

the House was reluctant to give up on its tax cuts, it did jettison the neutral cost recovery system. It also reduced the capital gains exclusion for individuals from 50% to 42.5% for tax year 1995 and to 34.5% for tax years 1996 and beyond. Likewise, the maximum corporation alternative tax on capital gains was increased from 25% to 26.5% for tax year 1995 and to 31.9% for tax years 1996 and beyond.

Perhaps the most peculiar change is the provision that a taxpayer could only take 73% of any tax benefit to which the taxpayer is entitled. For example, the \$500 child tax credit would be \$365. In addition, only 69% of contributions to an IRA and withdrawals from an ADS account would be deductible.

The prospects for Senate action on tax cuts increased when Senator William Roth replaced Senator Packwood as chairman of the Senate Finance Committee. He has expressed enthusiasm for a reduction in capital gains taxes and an expansion of individual retirement accounts, especially along the lines of the American Dream Savings Account.

The Senate version for tax cuts is also contained in its budget reconciliation bill (S. 1357). The Senate version incorporates many of the provisions of the House version, but with some major difference. The essential tax features of S. 1357 are:

#### Individual and Family Tax Provisions

- a family tax credit of \$500 for each qualifying dependent for taxpayers with income below \$75,000 (single) or \$110,000 (married);
- "marriage penalty" relief that increases the standard deduction for joint returns;
- an adoption tax credit;
- a credit for student loan interest payments equal to 20% of interest paid (maximum \$500 credit) in a year. The credit is phased-out depending on filing status and income.
- a "back-loaded" IRA (similar to the American Dream Savings Account). The savings account could be used for a variety of purposes, including retirement, medical expenses, higher education, and the first-time purchase of a new home.
- an increase in the amount that a nonworking spouse may contribute to an IRA;
- creation of a medical savings account; and

- various incentives for long-term care.

#### Business Tax Provisions

- conform method of depreciation to "regular" tax method (200% declining-balance method) for determining alternative minimum tax (AMT);
- AMT credit to offset 50% of current year AMT;
- a 50% capital gains exclusion for individuals;
- an increase in the estate tax credit; and
- a reduction in the maximum corporation alternative tax on capital gains from 35% to 28%.

The Senate tax cuts would have a similar impact on Montana tax collections as those described for the House version. Except for the tax credits, most of the tax relief for individuals would reduce Montana adjusted gross income or Montana taxable income. The biggest impact would come from the capital gains exclusion for individuals. Most of the other business tax cuts would have little or no impact on Montana.

The House and Senate conference committee is expected to resolve their budget differences sometime in late November. Political rhetoric over the Republican package has reached critical mass (cliche forgiven) with each side trying to gain the advantage for next year's election. Although President Clinton has vowed to veto the Republican budget, he has expressed support for certain elements of tax relief. Despite partisan fulminations and barring a political impasse, it is likely that tax relief, perhaps significant tax relief, will be enacted this year.

Montana would be adversely affected, at least in the short-term, by many of proposed changes to the federal tax structure. It would be relatively easy, technically, not to conform with any those changes that may have a large negative revenue impact on the state. On the other hand, revenue forecasts associated with tax cuts or tax increases often ignore the behavioral effects on businesses and individuals. Offsetting revenue gains may be achieved from increased economic activity if the tax cuts result in increased savings and investment. Montana policymakers will have to balance these issues in dealing with changes in federal tax policy.

Complicating the issue of federal tax reform is the circulation of other tax proposals that would significantly revise the Internal Revenue Code or scrap it entirely. Senator Pete Domenici, along with Senators Sam Nunn and Bob Kerrey, has introduced the USA Tax Act of 1995 (S. 722). This act would replace current individual income taxes with a

consumption-based tax system and corporation net profit taxes with a value-added tax.

Senator Arlen Specter and Representative Dick Armey have each introduced legislation that would repeal the current income tax structure by imposing a flat tax on the taxable income of individuals and corporations. Other reform measures that have been discussed include a national sales tax proposed by Senator Richard Lugar and Representative Bill Archer and a "modified" flat tax proposed by Representative Richard Gephardt. In addition, Senate Majority Leader Robert Dole and Speaker of the House Newt Gingrich have appointed a commission headed by Jack Kemp to redesign the Internal Revenue Code to make it "flatter, fairer, and simpler".

Any of these proposals, if enacted, would dramatically change the way in which individuals and corporations are taxed. This year's tax debate would seem like a minor skirmish compared to the donnybrook that would ensue over a flat tax or a national sales tax. Actual consideration of these reform measures will depend in large part on the outcome of the 1996 elections. As the electoral process unfolds, a future "The Back Page" article will discuss the pros and cons of these and other proposals that may emerge.



## INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED,  
ALL ROOM DESIGNATIONS ARE IN THE CAPITOL

### OCTOBER

November 7 and 8, Committee on Indian Affairs, Crow Agency

November 10, Veterans' Day, holiday

November 13, Legislative Committee on State Management Systems,  
Colonial Inn, Helena, 9 a.m.

November 14, Legislative Committee on State Management Systems,  
Room 104, 8:30 a.m.

November 17, Revenue Oversight Committee, Room 108

November 17, Legislative Audit Committee, Room 104

November 17, Committee on Public Employee Retirement Systems,  
Room 437, 9 a.m.

November 23, Thanksgiving, holiday

### DECEMBER

December 6, Enforcement and Compliance Subcommittee and the  
MEPA Implementation Subcommittee of the Environmental Quality  
Council

December 7 and 8, Environmental Quality Council

December 7, Subcommittee on Dedicated Revenue and Statutory Appropriations of the Legislative Finance Committee, Room 108, 1 p.m.

December 8, Legislative Finance Committee, Room 312-2

December 7, Public Hearing, Juvenile Justice and Mental Health Study Commission, Lincoln Center Board Room, Billings, 7 p.m.

December 7 and 8, Juvenile Justice and Mental Health Study Commission, Youth Services Center, Billings

December 15, Subcommittee on Veterans' Needs, Room 108

December 25, Christmas, holiday

## JANUARY 1996

January 1, New Year's Day, holiday

January 15, Martin Luther King, Jr. Day, holiday

January 22, Postsecondary Education Policy and Budget Committee

January 25 and 26, Joint Oversight Committee on Children and Families





Montana Legislative Council  
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Helena MT 59620-1706



